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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FELIPE YANEZ TOLENTINO,

Petitioner,

vs.

MATTHEW KRAMER, Warden,

Respondent.

Case No. CV 07-1389-SVW (DTB)

ORDER ADOPTING FINDINGS,
CONCLUSIONS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Petition, all the records and files herein, and the Report and Recommendation of the United States Magistrate Judge. Objections to the Report and Recommendation have been filed herein. Having made a de novo determination of those portions of the Report and Recommendation to which objections have been made, the Court concurs with and adopts the findings, conclusions and recommendations of the Magistrate Judge.

IT THEREFORE IS ORDERED that Judgment be entered granting a conditional writ of habeas corpus as follows: Respondent shall afford petitioner a new sentencing hearing unless the California Court of Appeal provides petitioner, along with the appointment of counsel, either an untimely appeal or an equivalent remedial procedure, so long as the procedure provided permits petitioner, with the assistance of appointed counsel, to pursue all direct appeal claims that would have been available on a timely

1 direct appeal from his re-sentencing in Los Angeles County Superior Court Case No.
2 PA046413.

3 DATED: 9/21/10

A handwritten signature in dark ink, appearing to read "Steven V. Wilson", is written over a horizontal line.

5 STEVEN V. WILSON
6 UNITED STATES DISTRICT JUDGE